

Congress of the United States
Washington, DC 20515

June 27, 2019

Honorable Alex M. Azar II
Secretary
U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar:

We are writing to encourage you to finalize your proposal to modernize the Medicare Part D program to ensure beneficiaries receive pharmaceutical manufacturer price concessions when they fill their prescriptions at the point-of-sale at the pharmacy counter.ⁱ This reform proposed by the Administration will significantly lower patients' out-of-pocket expenses and promote a more competitive marketplace for prescription drugs.

Many patients are struggling with their out-of-pocket expenses which have escalated, in part, because Part D plans do not use the rebates and discounts they receive from manufacturers to lower beneficiary costs at the point-of-sale. As such, patients are paying cost-sharing based on artificially inflated list prices when they fill their prescriptions and do not feel the direct impact of the substantial price concessions provided by manufacturers to their Part D Medicare plans.

Providing price concessions through retrospective rebates also has the adverse effect of requiring those patients with the highest drug costs to cross-subsidize everyone else, turning the concept of insurance on its head. High out-of-pocket costs undermine patient adherence and expedite beneficiaries through the Part D benefit structure, which has substantially increased the program's reinsurance expenses for costs in the catastrophic phase of the benefit. Reinsurance is the fastest growing component of the Part D program – growing from 8 percent of program expenses in 2007 to 40 percent in 2018.ⁱⁱ This reform will counter those concerning trends.

While CBO projected this rule could significantly increase Medicare spending over the next 10 years, that analysis is predicated on an unrealistic, static response by Part D plan sponsors.ⁱⁱⁱ CBO has misjudged Part D spending trends significantly in the past, notably overestimating the cost of the benefit by about 45 percent when it was first enacted. An analysis of the rule by the actuarial firm, Milliman, on the other hand, examined likely behavioral changes including stronger incentives for plans to favor lower cost drugs, more significant discounts, a decrease in brand-name cost growth and other factors, and found federal savings of up to \$97 billion.^{iv v}

We look forward to working with you to lower our seniors' drug costs, particularly by tackling distortions that have emerged in the market, which are preventing negotiated price concessions from reaching the patient. This reform will provide greater transparency, improve adherence, and still preserve every market tool Medicare drug plans need to negotiate aggressively with pharmaceutical manufacturers.

ⁱ Health and Human Services, Trump Administration Proposal to Lower Drug Costs by Targeting Backdoor Rebates and Encouraging Direct Discounts to Patients, (<https://www.hhs.gov/about/news/2019/01/31/trump-administration->

[proposes-to-lower-drug-costs-by-targeting-backdoor-rebates-and-encouraging-direct-discounts-to-patients.html](https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2019.pdf)), January 31, 2019.

ⁱⁱ 2019 Medicare Trustees Report Table IV.B10, available at (<https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2019.pdf>), March 2019.

ⁱⁱⁱ Congressional Budget Office, "Incorporating the Effects of the Proposed Rule on Safe Harbors for Pharmaceutical Rebates in CBO's Budget Projections—Supplemental Material for Updated Budget Projections: 2019 to 2029", (<https://www.cbo.gov/system/files/2019-05/55151-SupplementalMaterial.pdf>), May 2019.

^{iv} J. Klaisner, K. Holcomb and T. Filipek, "A primer on prescription drug rebates: Insights into why rebates are a target for reducing prices", (<http://www.milliman.com/insight/2018/A-primer-on-prescription-drug-rebates-Insights-into-why-rebates-are-a-target-for-reducing-prices/>) Milliman, Jan. 31, 2019

^v Tara O'Neill Hayes, "The Drug Rebate Rule: What's the Budget Impact?", (<https://www.americanactionforum.org/insight/the-drug-rebate-rule-whats-the-budget-impact/>), American Action Forum, May 21, 2019.

Sincerely,



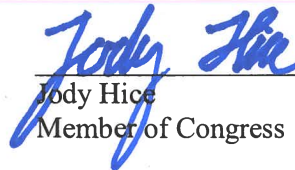
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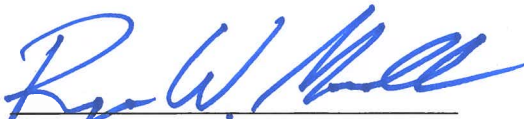
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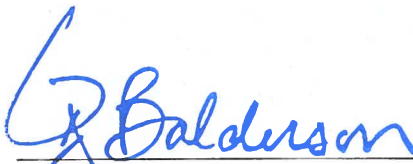
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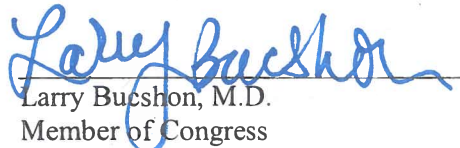
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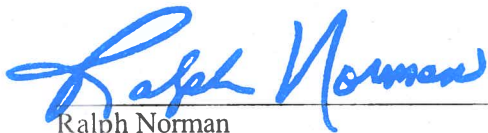
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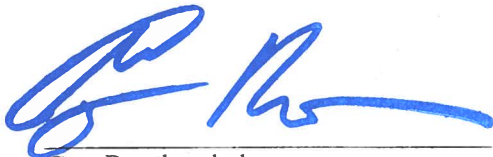
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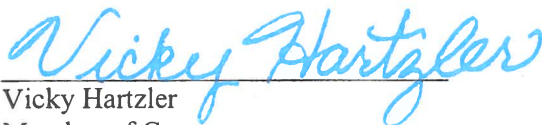
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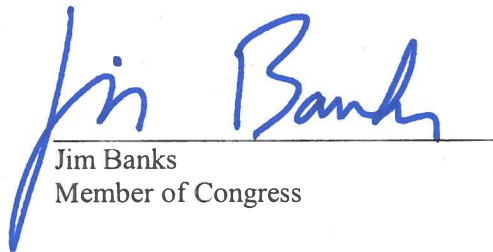
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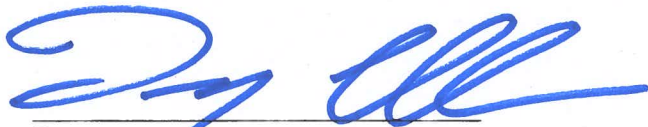
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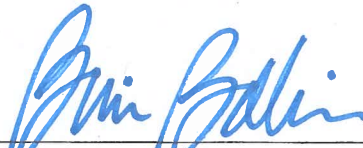
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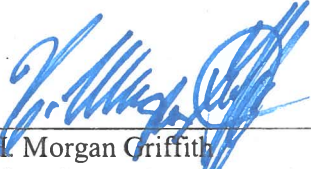
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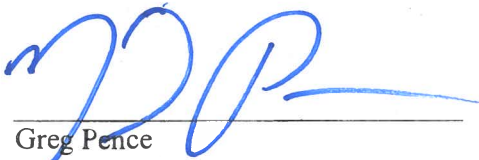
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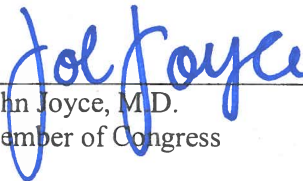
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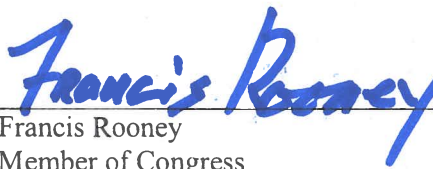
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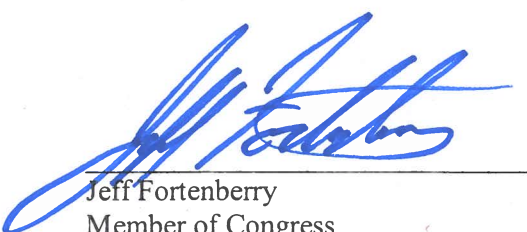
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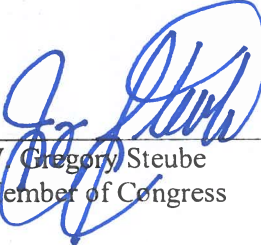
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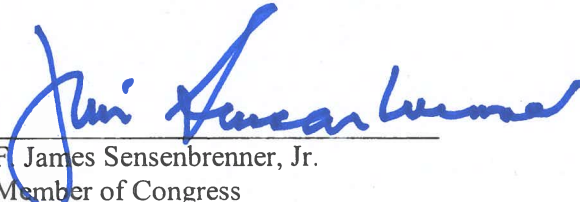
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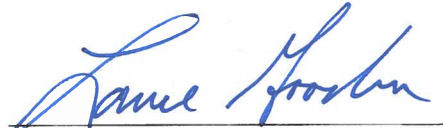
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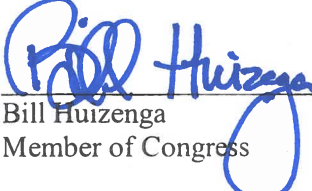
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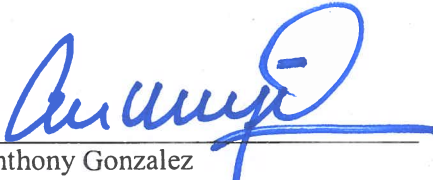
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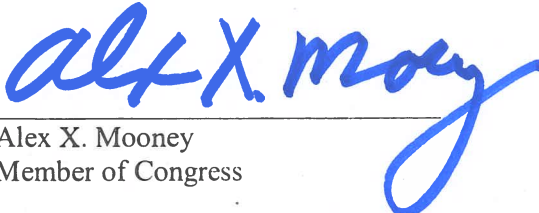
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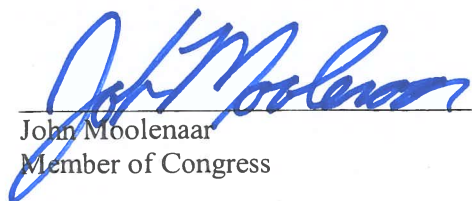
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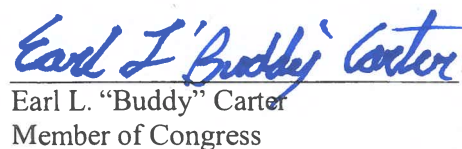


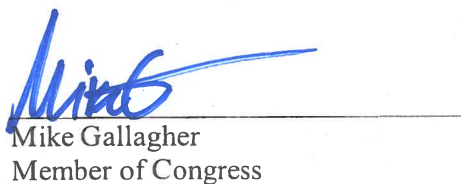
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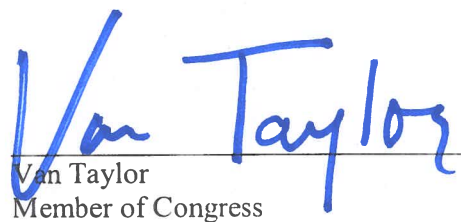
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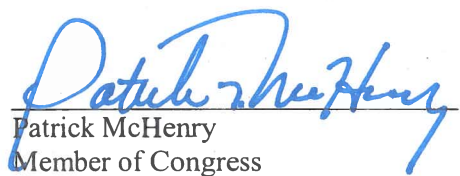

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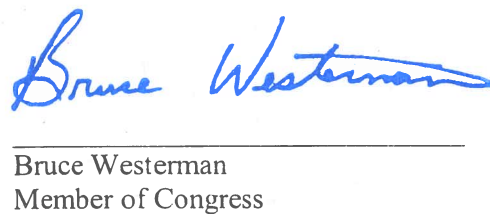

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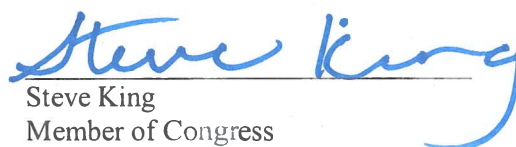

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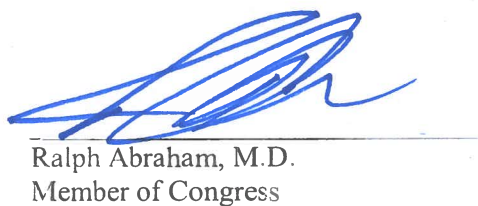

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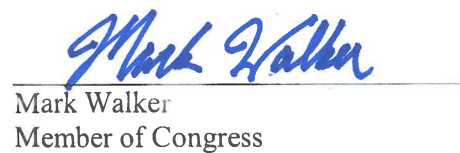

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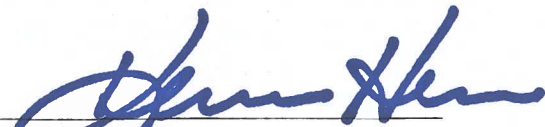

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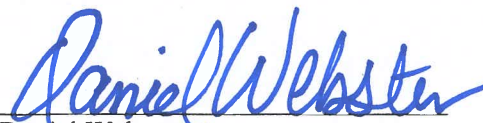

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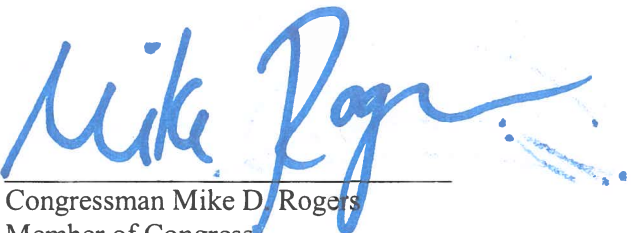

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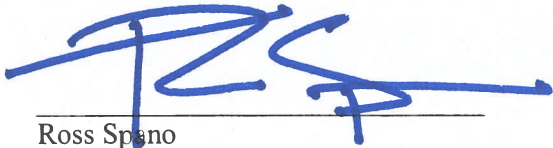

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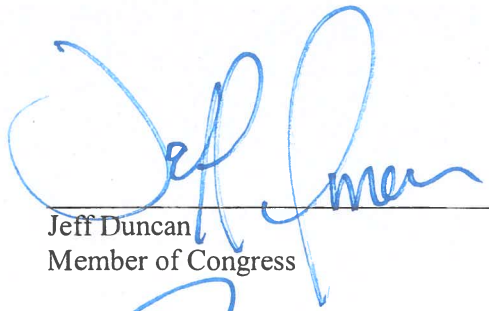

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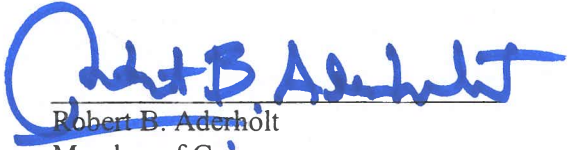

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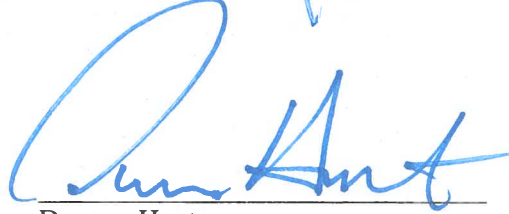
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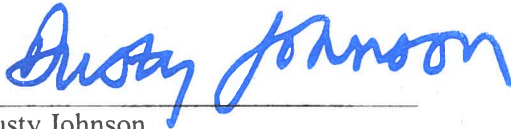
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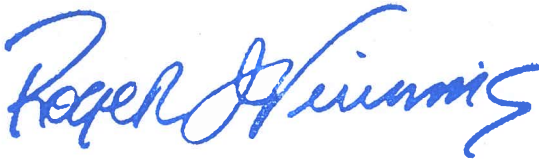
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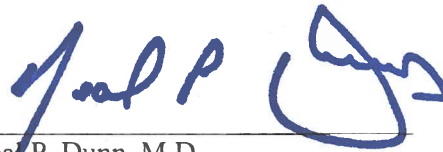
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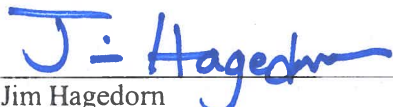
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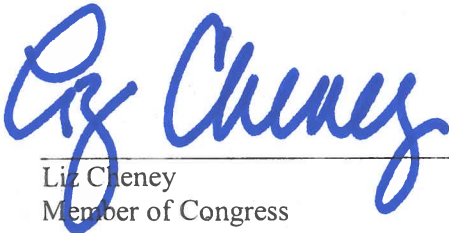
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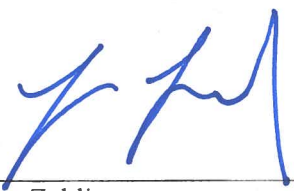
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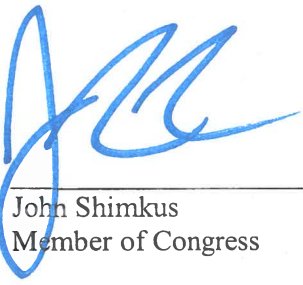
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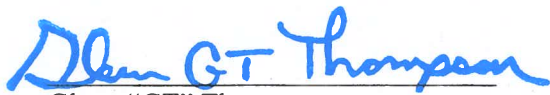
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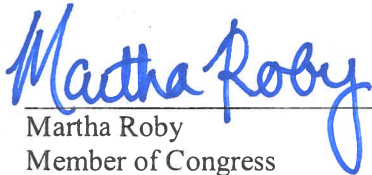
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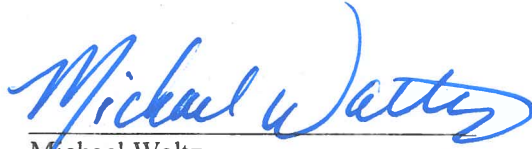
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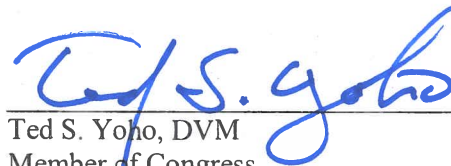
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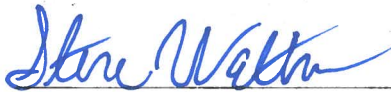
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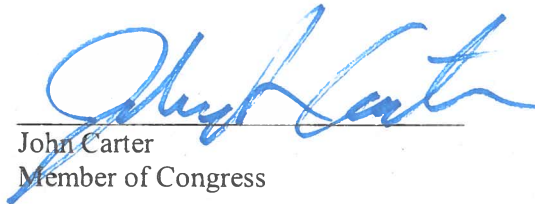
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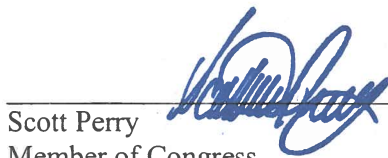
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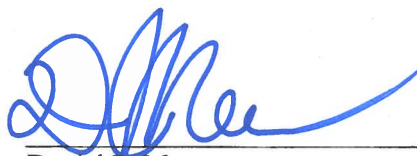
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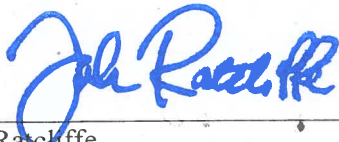
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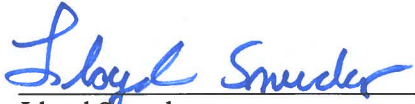
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